

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



VICTORIA PETERSON

Case No. 1:20CV260

Plaintiff,

v.

**Motion in Opposition
To Motion to Dismiss**

NORTH CAROLINA STATE
BOARD OF ELECTIONS;
DURHAM COUNTY
BOARD OF ELECTIONS;
ALEJANDRA JAVIERA CABALLERO

Defendants.

Victoria Peterson vs. North Carolina State Board of Elections, Durham County Board of Elections, Alejandra Javiera Caballero. On August 4, 2020 I Victoria Peterson (plaintiff) received a motion to dismiss from North Carolina State Board Of Elections (defendant) asking the court to dismiss my complaint that was file on August 24, 2020 and amended the complaint on July 20, 2020. I received a letter from The United States District Court Middle District Clerks Office it states that I have 21 days to respond to this motion to dismiss. I requested from the court additional time to respond to the motion to dismiss from defendant North Carolina State Board Of Elections (defendant) which I was granted the extra days.

Today on October 20, 2020 I am in **Opposition To The Motion To Dismiss** from North Carolina State Board Of Elections (Defendant). In the defendants motion N.C.S.B.O.E. states that the Middle District Court lacks subject matter jurisdiction. I totally disagree with that statement. I reside in the City of Durham County as well as the D.C.B.O.E. (defendant) the board resides in the City of Durham. The City falls within Durham County and Durham County falls within the jurisdiction of The United States District Court for the Middle District of North Carolina. Because I appeal my case to the North Carolina State Board of Election which Gen. Statues states that local election issues can be appeal to the North Carolina State Board Of Election. Even though this state agency does not reside in Durham County but represents the Durham County Board Of Election. I am Victoria Peterson (plaintiff) I am in the right jurisdiction.

Court Fees:

The United States Middle District Court has a policy that individual must pay a \$400.00 file fee before a civil lawsuit can be filed within The Middle District. I paid my filing fee \$ 400.00 on March 18, 2020. I paid \$400.00 for my case to be filed and heard by a Federal Judge. Because I have paid the court costs of the \$400.00 for my case to be filed in The United States District Court For The Middle District of North Carolina to be heard by a Federal Judge in the Middle District. I am in total Opposition to Motion to dismiss my Federal Lawsuit against Alejandra Javiera Caballero, Durham County Board Of Election, North Carolina State Board Of Elections.

Federal Subject Matter Jurisdiction

Federal Question:

United States Constitution Amendment 14: Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any persons of life, liberty, or property; without due process of law; nor deny to any persons within its jurisdiction the equal protection of the laws.

United States Constitution Amendment 15: Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous conditions of servitude.

United States Constitution Amendment 19: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

United States Constitution Amendment 24: Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors President or Vice President, or for Senator or Representative in Congress, shall not be denied or bridged by the United States or any state by reason of failure to pay any poll tax or other tax.

United States Constitution Amendment 26: Section 1. The right of citizens of the United States, who are 18 years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

The Constitution Of The State Of North Carolina: Article 6 Section 1. Who may vote? Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the state, except as herein and otherwise provided.

Voting Rights Act of 1965

so you said it was a

The Main issue

Alejandra Javiera Caballero ran for Durham City Council in 2019. At several candidate forms, she informed the public that she was brought to the United States from Chile. To this day, she refuses to show any documentation that she is a United States Citizen or either that she is a naturalized citizen of the United States. Because of the United States Constitution and the North Carolina State Constitution states clearly participate in the electoral process you must be a Citizen or Naturalized.

163-182.10. Consideration of protection by County Board of elections.

- (a) Preliminary Consideration. The following principle shall apply to the initial consideration of election protests by the county board of elections:

(1) The county board shall, as soon as possible after the protest is filed, meet to determine whether the protest substantially complies with G.S. 163 – 182. 9 and whether it establishes probable cause to believe that a violation of election law or irregularities or misconduct has occurred. If the board determines that one or both acquirments are not met board shall dismiss the protest. The board shall notify both the protester and the State Board of election. The protester may file an amended protest or may appeal to the State Board. If the board determines that both requirements are met it shall schedule a hearing.

(b) **Notice Of Hearing.** The county board shall give notice of the protest hearing to the protester, any candidate likely to be affected, any election official alleged to have acted and appropriately, and those persons likely to have significant interest in the resolution of the protest. Each person given notice shall also be given a copy of the protest or a summary of its allegations. The matter of notice shall be as follows:

I requested a preliminary hearing from The Durham County Board of Elections. I never received that hearing. The Durham County Board of Elections had a regular board meeting which I have already stated in my amendment to my lawsuit. I was invited to one of Durham County Board of Elections regular board meeting and was told that I would not be allowed to speak or present any evidence. To this day I have not had a preliminary hearing with the Durham County of Board Elections.

How did the North Carolina State Board Of Election handle my Preliminary Hearing and Petition.

Ms. Karen Brinson Bell the Executive Director of the North Carolina State Board of Election recommended to the board members to dismiss my complaint to the North Carolina Board of Election which they did. To this day I have never gone before the North Carolina State Board of Election with my protest of Alejandra Javiera Caballero. Please read the full complaint of the Civil Lawsuit.

“This agency should not tolerate suspicious allegations that abuse our State’s electoral process. Election protest must be based on facts and evidence, not fear and intolerance. For these reasons, as the Executive Director, I recommend the State take no action on this matter. If no member raises any written objection to the recommendation on October 18, 2019, the protest appeal will be administratively dismissed, and the protester will be notified accordingly. This statement comes from Ms. Karen Brinson Bell, Executive Director of the North Carolina State Board of election.”(N.C. State Board of elections)

G.S. 163-182.11. Appeal of a protest decision by the county board to the State Board of elections.

G.S. 163-182.12. Authority of State Board of Elections over protests.

Ms. Karen Brinson Bell is an employee of the North Carolina State Board of Election. She was not appointed by the governor, and reading and understanding these two statues this young lady had no authority to make a decision on dismissing my preliminary or protest complaint to the North Carolina State Board of Elections.

Under the Federal Rules of Evidence

Rule 201-(e) Judicial Notice of Adjudicative Facts

(e) Opportunity to be heard. On a timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the facts to be noticed. If the court takes the judicial notice before notifying a party, the party, on request, is still in title to be heard.

I Victoria Peterson (plaintiff) am requesting an opportunity to be heard on my motion in opposition to dismiss my complaint. I am also requesting this because, I have a disability my disability falls up under the Americans With Disability Act. I would like to verbally address the court with my complaint.

Date: Oct 20, 2020



Plaintiff

Mrs. Victoria Peterson
810 Ridgway Ave
Durham, North Carolina 27701
919-949-3867
vbpeterson53@yahoo.com

CERTIFICATE OF SERVICE

This is to certify that the undersigned as this day served the foregoing notice of Motion in Opposition Motion to Dismiss in the above title action upon all parties to this cause by this posing a copy in the United States mail, postage prepaid to:

Attorney Terence Steed
Attorney Paul M. Cox
Attorney Special Litigation Section

N.C. Department Of Justice
P.O. Box 629
Raleigh. N. C. 27602-0629

This day 20th day of October, 2020.



Mrs. Victoria Peterson

Plaintiff